

REMARKS

In a telephone communication by Examiner Conley on May 5, 2005, the examiner suggested that the first paragraph of claim 1 be amended as follows in order to overcome the prior art and to place the application in condition for allowance.

1. A one piece case for enclosing a pillow comprising a first pocket and a second pocket, each of said pockets having an opening defined by a rim at a proximal end and a closed section extending to an opposite end, the proximal end of the first pocket is located adjacent the closed section of the second pocket independent of attachment to the second pocket, and the opposite end of the first pocket extends from a portion of the rim of the second pocket,

These two suggestions limit the primary claim and further define a relationship between the first pocket and the second pocket which was missing from the previously amended claim1. While applicant agrees that such limiting language would place the claim in condition for allowance, the drawings show the pockets reversed from what has been suggested by the examiner, i.e. the closed section of the first pocket is located adjacent the proximal end of the second pocket. The applicant has amended claim 1 and the other independent claims to make clear this aspect which distinguishes the present invention from the cited prior art. Thus, the first paragraph of claim 1 appears as follows:

1. A one piece case for enclosing a pillow comprising a first pocket and a second pocket, each of said pockets having an opening defined by a rim at a proximal end and a closed section extending to an opposite end, the proximal end of the first pocket is independent of attachment to the second pocket, the closed section of the first pocket is located adjacent the proximal end of the second pocket, and the opposite end of the first pocket extends from a portion of the rim of the second pocket,

The applicant appreciates the examiner's proposed resolutions and his thorough review of the application in connection with the current Office Action made necessary by applicant's attorney

not being able to respond to the telephone invitation to resolve this matter. Applicant's attorney was and continues to recuperate from heart surgery.

This application has been very carefully considered, applicant believes that a truly patentable invention is presented, and accordingly respectfully requests reconsideration of all the claims as now presented.

35 U.S.C. §102 Rejections

Claims 1-6, 10-11, 15 and 17 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,275,205 to Bigham.

Claim 1 and the other independent claims has been amended to require, unlike Bigham, that the instant invention is limited to a "one piece" case and that "the closed section of the first pocket be located adjacent to the proximate end of the second pocket." These unique elements are neither taught nor suggested by Bigham. Independent claims 4 and 11 have been similarly amended. Claim 15 has been amended to restrict the method to a one piece case which is neither taught nor suggested by Bigham.

Claim 10 is a preferred embodiment of amended claim 1 and entitled to patentability on the same basis as amended claim 1.

Claim 11 was previously objected to in the first office action and amended and rewritten in independent form including all of the limitations of the base claim and any intervening claims. The current Office Action indicates that the determination was moot in light of Bigham. For the reasons set forth above with respect to Bigham above, and also that claim 11 has been amended to indicate that this one piece case for enclosing a pillow and that said one piece case requires that the opposite end of the first pocket extend from a portion of the rim of the second pocket

which limitations are neither taught nor suggested by Bigham, applicant respectfully requests that claim 11, as amended, be allowed.

Claim 15 has been objected to as having the same limitation as claim 11. Claim 15 has also been amended to indicate that this one piece case for enclosing a pillow and that said one
5 piece case requires that the opposite end of the first pocket extend from a portion of the rim of the second pocket which limitation is neither taught nor suggested by Bigham. Based on the foregoing, applicant respectfully requests that claim 15, as amended, be allowed. These remaining rejected claims are dependent on amended independent claims and entitled to patentability on the same bases as the independent claims on which they depend.

10 Reconsideration of Claims 1-6, 10-11, 15 and 17 under 35 U.S.C.102(b) as being anticipated by Bigham ('205) is respectfully requested.

Based on the foregoing, applicant requests that Claims 1-6, 10-11, 15 and 17, as amended, be allowed.

15 Additionally, claims 7-8 and 18 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,419,779 to Janesh.

Claim 7 has been amended to define the case as being a one piece case for enclosing a pillow with the pillow having a length of one pillow length and a width of one pillow width. Moreover, the first pocket comprises a first double layer having a first full bottom layer and a complimentary sized top layer to form a pocket that has a length of one pillow length and a width
20 of one pillow width. Similarly, the second pocket is comprises a second full double layer comprising a full bottom layer and a complimentary sized top layer to form a second pocket

having a length of one pillow length and a width of one pillow width. The Janesh reference does not teach nor require that full double layers be provided requiring a full bottom layer and a complimentary sized top layer for each of the first pocket and second pocket, nor that each of the pockets have a length of one pillow length and a width of one pillow width, as required by amended claim 7.

Claim 8 is a preferred embodiment of amended claim 7 and is entitled to patentability on the same basis as amended claim 7.

Claim 18 has been currently amended to make clear that the pillow being encased has a length of one pillow length and a width of one pillow width and that the folding of a single sheet of material to form a first double layer with the first full bottom layer and complimentary sized top layer, which when a portion of the peripheral edge is attached, forms a first pocket having a length of one pillow length and a width of one pillow width. Similarly, a second pocket is formed from the first full bottom layer and a complimentary sized top layer, which when a portion is attached peripherally along the edges a second pocket having s length of one pillow length and a width of one pillow width.

The arguments set forth above in relation to claim 7 are applicable here as well to claims 8 and 18 and allowance of those claims is respectfully requested.

Reconsideration of Claims 7-8 and 18 under 35 U.S.C.102(b) as being unpatentable in view of Janesh is requested in light of the arguments/amendments presented herein.

Based on the foregoing, applicant requests that Claims 7-8, and 18, as amended, be allowed.

35 U.S.C. §103 Rejections

Claims 13-14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bigham in view of U.S. Patent No. 6,196,156 to Denesuk.

Claims 13-14 are preferred embodiments of amended claims 1 and entitled to patentability on the same basis as amended claim 1.

Reconsideration of claims 13-14 under 35 U.S.C.103(a) as being unpatentable over Bigham is requested in light of the amendments and arguments presented herein.

Based on the foregoing, applicant requests that claims 13-14, be allowed.

Claim 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Bigham in view of U.S. Patent No. 6,196,156 to Denesuk.

Claim 9 is a preferred embodiment of amended claims 1 and entitled to patentability on the same basis as amended claim 1.

Reconsideration of claim 9 under 35 U.S.C.103(a) as being unpatentable over Bigham is requested in light of the amendments and arguments presented herein.

Based on the foregoing, applicant requests that claim 9, be allowed.

Allowable Subject Matter

Claim 16 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 16 has been rewritten in independent form including all of the limitations of the

base claim and any intervening claims. Reconsideration of claim 16 is respectfully requested in light of the amendments presented herein.

Based on the foregoing, applicant requests that claim 16, as amended, be allowed.

5 **Affidavit Under Rule 131**

10 With regard to the Affidavit under Rule 131 that was submitted to establish Applicant's proof of a reduction to practice, the Applicant has supplied dates of invention and of the making a prototype thereof, and dates regarding communications with patent searchers for the pre-examination search reports, is believed to be sufficiently detailed to meet the requirements of Rule 131, nonetheless, a Supplemental Affidavit under Rule 131 is being submitted herewith by the Applicant's attorney which includes drawings made by the Applicant's attorney based on the prototype supplied by the inventor dated September 26, 2002. Wherefore, Applicant believes that a clear showing of the reduction to practice by the Applicant before the pertinent dates of Benavides patent is now shown and said rejection is respectfully requested to be withdrawn.

CONCLUSION

For all the above reasons, applicant believes that all the claims presented in this application are allowable over the prior art, and any early allowance of the application is earnestly solicited. Formal drawings will be submitted upon notice of allowance.

Respectfully submitted,



Michael R. McKenna
Registered Patent Attorney
Reg. No. 32,368

MICHAEL R. MCKENNA
500 West Madison Street
Suite 3800
Chicago, Illinois 60661
(312) 321-0123

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, PO Box 1450, Alexandria, VA 22313-1450 on 6/10/05.

Date: 6/10/05 Signed: Ruth Zeh Leib.